



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION NO. 1042 OF 2026

Sachin S/o. Tarachand Bhorkar,
Age : 43 Years, Occu. : Private,
R/o. Plot No.45, Near Datta Mandir,
Mire Layout, Hanuman Nagar,
Nagpur.

.... Petitioner

VERSUS

Seema W/o. Tarachand Parate,
Age : 38 Years, Occu. : Household,
R/o. 41, Shesh Nagar, Kharabi Road,
Wathoda Layout, Kalapna Tution Classes,
Nagpur.

.... Respondent

....
Advocate for Petitioner : Dr. A.S. Mishrikotkar
Advocate for Respondent : Mr. R.N. Borwankar
....

CORAM : PRAFULLA S. KHUBALKAR, J.

Dated : 25th FEBRUARY 2026

JUDGMENT :

1. Heard.

2. **Rule.** Rule is made returnable forthwith and by consent of learned Advocates appearing for the parties, the petition is taken up for final disposal.

3. By this petition, the petitioner has challenged an order dated 05.01.2026, passed by the Court of District Judge-13, Nagpur, in Civil Misc. Application No.1034 of 2025, at Exhibit 01, rejecting the application for condonation of delay in filing the appeal under Section 34 of the Maharashtra Rent Control Act, 1999 (for short, “the Act”).

4. The petitioner was the original defendant in the suit filed by the respondent, seeking eviction, possession, arrears of rent, damages and mesne profits, under Section 15 and 16(1)(g) of the Act. By judgment and decree dated 03.03.2025, the suit came to be decreed and the defendant was directed to handover the vacant and peaceful possession of the suit property.

5. Feeling aggrieved by the judgment and decree, the defendant (petitioner herein) preferred an appeal under Section 34 of the Act, which was accompanied with an application for condonation of delay. The application for condonation of delay was opposed by the respondent and by order dated 05.01.2026, it came to be rejected. The petitioner has challenged the said order by way of instant petition.

6. Learned Advocate for the petitioner submitted that there was a delay of about 6 months 19 days, in filing the statutory appeal,

which occurred on account of several reasons, which were elaborately mentioned in the application for condonation of delay including the time consumed in obtaining certified copies, contacting the Advocate, etc. She submitted that all the reasons mentioned in the application constituted sufficient cause, however, by adopting a hyper technical approach, the application came to be rejected.

7. Opposing the petition, learned Advocate for the respondent submitted that the petitioner-original defendant was not diligent in filing the appeal and the reasons mentioned in the application for condonation of delay do not constitute sufficient cause. He, therefore, supported the impugned order.

8. While considering the rival contentions of the parties, it has to be seen that the petitioner had filed the statutory appeal under Section 34 of the Act, which was accompanied with an application for condonation of delay. The application for condonation of delay mentioned several reasons including that the appellant/defendant was not aware about filing of the suit and got knowledge about the suit after the judgment and decree was passed against him. It is also mentioned in the application that after getting knowledge, he contacted an Advocate and obtained certified copy of the judgment and decree and thereafter, filed the appeal, during which process there was delay of 6 months and 19 days.

9. A perusal of the contents of the application for condonation of delay indeed shows that the petitioner was not diligent in filing the appeal and the reasons mentioned also does not appear to be convincing, however, denying an opportunity to the petitioner to file the statutory appeal would be a pedantic approach and cause prejudice to the right of the parties. Although the appellate Court has recorded reasons while passing the impugned order, however, having regard to the rights of the tenant to contest the appeal on merits, in the interest of justice, one opportunity needs to be granted to the petitioner to file the appeal, so that it is decided on merits. In that view of the matter, hardship suffered by the respondent could be compensated by awarding heavy costs and the application for condonation of delay needs to be allowed.

10. In view of the above mentioned factual and legal aspects, following order is passed.

ORDER

- I) The writ petition is allowed.
- II) The order dated 05.01.2026, passed by the Court of District Judge-13, Nagpur, in Civil Misc. Application No.1034 of 2025, at Exhibit 01, is quashed and set-aside.

III) The application filed by the appellant-petitioner for condonation of delay in filing the appeal is allowed, subject to costs of Rs.20,000/- (Rupees Twenty Thousand Only), to be paid by the petitioner to the respondent.

11. In view of the deposit of the amount of Rs.10,000/- by the petitioner, in this Court earlier, it is directed that the respondent is allowed to withdraw the said amount of Rs.10,000/- and the petitioner is directed to deposit an additional amount of Rs.10,000/- (Rupees Ten Thousand Only) before the appellate Court within a period of four weeks from today.

12. In view of the above, the writ petition is disposed of with no order as to costs. Rule is made absolute in the above terms.

[PRAFULLA S. KHUBALKAR]
JUDGE

asd